

Application Serial No. 10/624,820
Amendment dated March 20, 2009
Response to Final Office Action dated Oct. 20, 2008

REMARKS

The Office Action contained rejections of the claims under 35 USC §§112 and 103. Each will be responded to below.

a. Response to Claim Rejections - 35 USC. 112

Claims 1-15 were rejected under 35 USC 112, second paragraph, as being indefinite, on grounds that the phrase "sufficient length to support rows of multiple pallets" is indeterminate if one does not know the size of a single pallet. The Examiner asked if pallet size is an industry standard well known to the art, and requested clarification of this limitation.

In response, Applicant has amended claim 1 to recite that the palletized cargo is sized to fill either two abreast or singly the width of a standard highway dry van. The trailers shown in Applicant's drawings and described in the specification are known in the industry "dry vans," and are standardized in the industry at approximate 8 foot and 8.5 foot outside widths, due primarily to highway regulations. The pallets in turn are standardized at approximate 4-foot square dimensions, the most common being 48 X 40 inches, so that palletized cargo placed thereon will fill the width of a standard dry van two abreast if single pallets are used, or singly if the cargo is palletized on combinations of two, four, six pallets and so on. Slight variations exist from manufacturer to manufacturer and from cargo type to cargo type (e.g., groceries vs. chemicals), but the variations are relatively small, generally amounting to no more than a few inches.

Height of the palletized cargo is generally restricted to about 8 feet for standard dry vans, although the height dimension is not directly relevant to the claimed subject matter.

The size of a pallet as used in the claims, is therefore about 4-feet square, with the palletized cargo in turn being a minimum of 4 feet in length, and either 4 feet or 8 feet in width. The minimum length of a row of multiple pallets is about 8 feet. However, in order to further clarify the meaning of this limitation, Applicant has also revised the phrase "individual loads of said palletized cargo" to read "full loads of said palletized cargo that will fill the length of a standard highway dry van". Standard lengths for a highway dry van are about 48 feet and about 53 feet, again owing mainly to regulatory factors, and again with some relatively minor

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variations. A full load of palletized cargo that will fill the length of a standard dry van, as recited in claim 1, will therefore be about 12 pallet lengths long (about 48 feet) or more.

In view of the foregoing, Applicant respectfully submits that what is meant by the traveling conveyor having a horizontal deck with "sufficient length to support said rows of multiple pallets that form said full loads of said palletized cargo" is clear, and that the rejection of claim 1 and its depending claims under 35 USC 112 is overcome.

b. Response to Claim Rejections - 35 USC. 103

(i) Claims 1-15

Claims 1-3 and 5-6 were rejected under 35 USC 103(a) as being unpatentable over Staege in view Atwater and further in view Suizu and Proske. Claims 7-8, 10-11 and 14 were rejected under 35 USC 103(a) over Staege in view of Atwater, Suizu and Proske and further in view of Tharpe. Claim 9 was rejected under 35 USC 103(a) over Staege in view of Atwater, Suizu and Proske and further in view of Ringer. Claims 12-13 were rejected under 35 USC 103(a) over Staege in view of Atwater, Suizu and Proske and Thorton and further in view of Barski. Claim 15 was rejected under 35 USC 103(a) over Staege in view of Atwater, Suizu and Proske and Thorton and further in view of Winski.

In the previously response, dated 15 September 2008, Applicant explained that, in addition to Staege not showing a conveyor capable of moving rows of pallets off either first or second ends, as required by claim 1, the references do not show the feed conveyor, storage racks and loading/unloading conveyor having elongate, generally horizontal end portions with sufficient length to support the rows of pallets that form the loads of cargo, with the traveling conveyor being movable between locations in which its elongate deck is aligned longitudinally with the elongate end portions of the other components, as is also required by claim 1. In the office action, the Examiner held that the arguments were not persuasive, stating "Applicant may consider it novel to have a feed conveyor, storage racks, loading conveyor and traveling conveyor each having sufficient length to support and load in one operation individual loads comprising rows of multiple pallets simultaneously, but that is not the only interpretation available from the intended use recitation. It has been held the functional "whereby" statement

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does not define any structure and accordingly cannot serve to distinguish". The Examiner therefore held that the prior art met the claims, on grounds that in the prior art the rows of multiple pallets can be loaded individually, e.g., one at a time.

In response, Applicant has amended claim 1 to move the limitations from the "whereby" clause to the elements in the main body of the claim. Furthermore, as discussed above, Applicant has amended claim 1 to recite that the traveling conveyor and the end portions of each of the feed conveyor, storage racks and loading/unloading conveyor are sufficient to support the rows of multiple pallets that form full loads of the palletized cargo. Applicant has also amended the claim to recite that the full loads are received by or discharged from the traveling conveyor simultaneously.

Accordingly, Applicant respectfully submits that claim 1, as amended herein, recites structural differences that distinguish the claimed invention over the prior art: As the Examiner noted, the references disclose structures that can carry/load pallets individually. However, they cannot support/load a full load of palletized cargo simultaneously, as is required by amended claim 1. Applicant therefore respectfully submits that the amendments to claim 1 overcome the rejection of claim 1 and its dependent claims 2-15 under 35 USC 103.

(ii) Claims 16-19 and 22-26

Independent claim 16 and its dependent claims 17-18 and 22-26 were rejected under 35 USC 103(a) as being unpatentable over Holtz in view Thorton and Lang. In response, Applicant respectfully requests that the rejection be reconsidered and withdrawn.

In the response dated 15 September 2008, Applicant explained that Holt's paddle does not move between a retracted position beneath the upper surface of the dock member and a deployed position above the surface of the dock member, being that it is in all cases located above the load surface, and that the proposed modification using Lang would be not be obvious. In the present Office Action, the Examiner disagreed with Applicant's argument, stating "because both Lang's and Holtz's pusher connection means connects below a load surface, whether connected at either end or at the middle, Holtz's paddle will still move translationally, the claimed invention."

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Applicant agrees that Holtz's paddle will move translationally, however as noted in the prior response it is always located above the load surface. To modify Holtz based on Lang, to move the paddle between positions below and above the load surface, as required by claim 16 would not be obvious for two reasons: First, Holtz teaches against the modification, since Holtz teaches that the paddle must remain above the load surface in order to perform its functions, e.g., to act as a stop. Second, the proposed combination would not work, since Holtz's paddle (which must extend across the load surface to function) could not be retracted into a narrow track within the load surface in the manner of Lang's hook.

Accordingly, Applicant respectfully requests that the rejection of claims 16-19 and 22-26 be reconsidered and withdrawn.

c. Conclusion

Applicant respectfully requests reconsideration of the present application in view of the remarks set forth herein. It is believed that the claims are now in condition for allowance. If there is any matter that can be expedited by consultation with Applicant's attorney, such would be welcome. Applicant's attorney can normally be reached at the telephone number given below.

Signed at Bellingham, County of Whatcom, State of Washington this 20th day of March 2008.

Respectfully submitted,

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